

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Miguel Rodriguez-Vazquez

Petitioner

v.

United States of America

Respondent.

Civ. No. 05-1255 (PG)
(Re: Crim. No. 02-393 (PG))

Re:	ORDER
<p>Docket # 20 - MAGISTRATE-JUDGE'S REPORT AND RECOMMENDATION</p>	<p>Upon de novo review of the Magistrate Judge's Report and Recommendation ("R&R"), as well as the objections thereto, the Court finds no reason to depart from the Magistrate Judge's sound findings and conclusions. What is more in <u>U.S. v. Booker</u>, 543 U.S. 220 (2005), the Supreme Court stated that its "holdings-both the Sixth Amendment holding and [the] remedial interpretation of the Sentencing Act-" would apply "to all cases on direct review" and not collateral review. <u>Id.</u>, at 268. Accordingly, the Court ADOPTS the R&R DENIES petitioner's motion (Docket No. 1.) Lastly, as noted by the previous magistrate judge in her R&R (<u>see</u> Docket No. 11), petitioner's motion is time-barred and his rights to jury trial and due process have not been violated. Therefore, he is not entitled to a Certificate of Appealability either. Judgment shall be entered dismissing this action.</p>

IT IS SO ORDERED

In San Juan, Puerto Rico, August 16, 2006.

S/JUAN M. PEREZ-GIMENEZ
U.S. District Judge